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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,051	06/24/2003	Taichi Hirokawa	67161-054	8130

7590 06/30/2004
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER


FENTY, JESSE A

ART UNIT	PAPER NUMBER
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2815

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/602,051	HIROKAWA ET AL.	
	Examiner	Art Unit	
	Jesse A. Fenty	2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by DeBoer et al. (U.S. Patent No. 6,258,729 B1).

In re claim 5, DeBoer (Fig. 5C) discloses a semiconductor device having a capacitor including a pair of electrodes insulated from each other, comprising:

A first conductive layer (165);

An insulation layer (187) formed on said first conductive layer and having a hole reaching said first conductive layer, wherein

Said hole has a first portion and a second portion having diameters different from each other, the diameter of said hole discontinuously changes at a boundary between said first portion and said second portion;

One electrode (290) of said capacitor formed along an inner wall surface of said hole and electrically connected to said first conductive layer; and

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A second conductive layer (175) located between said first conductive layer and said one electrode and only on a bottom portion of said hole and electrically connected to both of said first conductive layer and said one electrode.

In re claim 6, DeBoer discloses the device of claim 5, wherein

Said insulation layer has a first insulation layer (187) and a second insulation layer (186),

Said first portion of said hole is formed in said first insulation layer, and

Said second portion of said hole is formed in said second insulation layer and (the second portion of the hole) has a diameter larger than a diameter of the first (lower) portion.

3. Claim 7 is rejected under 35 U.S.C. 102(e) as being anticipated by Yoshida et al. (U.S. Patent No. 6,649,956 B2).

In re claim 7, Yoshida (Fig. 42b) discloses a semiconductor device having a capacitor including a pair of electrodes insulated from each other, comprising:

A first conductive layer (15);

An insulating layer (19) formed on said first conductive layer and having a hole reaching said first conductive layer, wherein

Said hole has a first portion and a second portion having diameters different from each other, the diameter of said hole discontinuously changes at a boundary between said first portion and said second portion; and

One electrode (22) of said capacitor formed along an inner wall surface of said hole and electrically connected to said first conductive layer, wherein

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Said first conductive layer has a concave portion connecting to said hole, and said one electrode is formed along a whole inner wall surface of said concave portion.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. as applied to claim 7 above, and further in view of Lee (U.S. Patent No. 6,649,955 B2).

In re claim 8, Yoshida discloses the device of claim 7, wherein

Said insulation layer has a first insulation layer wherein said first portion of hole is formed in said first insulation layer,

A second portion of the whole above the first portion that has a larger diameter than the first portion, but does not expressly disclose an second insulation layer above the first, surrounding the upper hole.

Lee (Fig. 12) disclose a capacitive device with lower (252) and upper (2580) insulating layers surrounding the upper hole. It would have been obvious to one skilled in the art at the time of the invention to use an upper insulation layer as disclosed by Lee for the device of Yoshida for the purpose, for example, of enhancing the device structure by providing additional support to the upper conductive layers.

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Response to Arguments

6. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

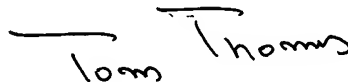
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesse A. Fenty whose telephone number is 571-272-1729. The examiner can normally be reached on 5/4-9 1st Fri. Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 571-272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jesse A. Fenty
Examiner
Art Unit 2815

A handwritten signature in black ink that reads "Tom Thomas". The signature is written in a cursive style with a horizontal line above the first name.

TOM THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800